REMARKS

Applicant has carefully reviewed and considered the Office Action mailed on February 5, 2003, and the references cited therewith.

Claims 1, 7, 8, and 12 are amended; as a result, claims 1-14 remain pending in this application.

Claim Objections

Claims 7 and 12 were objected to because of informalities. Applicant has amended claims 7 and 12 as required by the Examiner. The amendments with respect to the informalities address minor typographical concerns and do not affect the scope of the claims.

§103 Rejection of the Claims

Claims 1, 4, and 9-13 were rejected under 35 USC § 103(a) as being unpatentable over Faska et al. (U.S. 2002/0008191). This rejection is respectfully traversed, and applicant reserves the right to swear behind the reference. The reference must teach or suggest all the claim elements. M.P.E.P. § 2142 (citing *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed.Cir. 1991)).

Claim 1, as amended makes it clear that the visible light pixel elements are "adapted to be selective to colors encountered while driving an automobile such that traffic control colors are optimally sensed." Applicants agree that the ability to tune light pixel elements is known in the art. However, Faska et al. does not teach the particular tuning claimed. As indicated in the prior art section of the application, infrared displays have been utilized in providing night vision to drivers. They do not provide useful information regarding traffic control signals as does the claimed device. There is no teaching of adapting visible light pixel elements for traffic control colors in Faska et al. as claimed. Thus, the reference does not teach the device as claimed and the rejection should be withdrawn.

Further, the Office Action appears to be taking official notice regarding the use of the device in Faska et al. The Office Action recites: "Faska et al. fails to specifically disclose that the system is used to aid a driver of an automobile, or that it is used in a heads-up display for an

automobile, or that the visible light pixels are adapted to be selective to colors encountered while driving, however given that it is used as a field vision system susceptible to different colors within infrared and visible range, using it as an aid in an automobile is an obvious matter of design choice since it fulfills the same function, and since it is susceptible to different colors in the visible spectrum, it is obvious that it is susceptible to different colors that one encounters while driving." The examiner is requested to provide a reference to support these statements. Absent a reference, it appears that the Examiner is using personal knowledge, so the Examiner is respectfully requested to submit an affidavit as required by 37 C.F.R. § 1.104(d)(2).

It should be further noted that Faska et al. describes a system that is "able to detect and determine, on a simultaneous and pixel-registered basis, the amount of light of two or more different wavelengths in a given field of vision...for such purposes as identifying a spectral signature for a given source." Paragraph [0002]. There is no hint that such a system would be useful for aiding a driver of a vehicle. Thus, it cannot be "obvious that it is susceptible to different colors that one encounters while driving." as stated in the office action, and the rejection should be withdrawn.

Claim 4 depends from claim 1 and is believed allowable for at least the same reasons.

Claim 9 contains at least two elements not shown in Faska et al. Among the differences, claim 9 recites "a second array of photosensors adapted to be selective to traffic control signals", which is not taught by the reference as described above. Claim 9 also recites "a heads up display coupled to the arrays for generating an image based on infrared images and visible light corresponding to traffic control signals." There clearly is no teaching of such a display in Faska et al. In fact, given the purpose of Faska et al., in identifying spectral signatures, it is unlikely that one can infer that it teaches a heads up display, nor one for generating an image corresponding to traffic control signals.

Claim 10 is also directed toward "sensing visible radiation corresponding to traffic control colors", and also displaying such colors in color. There is no such display recited in Faska et al. Claims 11 and 12 depend from claim 10 and distinguish for at least the same reasons.

Claim 13 also recites that the visible light piexel elements are "adapted to be selective to colors encountered while driving an automobile", which is not shown in Faska et al.

Claims 2, 3, 5-8, and 14 were rejected under 35 USC § 103(a) as being unpatentable over Faska et al. and further in view of Yamakawa et al. (U.S. Patent No. 5,929,432). This rejection is respectfully traversed.

Each of these claims depend from an independent claim rejected solely based on Faska et al. Since Yamakawa et al. is not cited as providing elements of such independent claims missing from Faska et al. the dependent claims are also considered allowable. As such, the rejection should be withdrawn.

CONCLUSION

Applicant respectfully submits that the claims are in condition for allowance and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney, Brad Forrest, at (612) 373-6972 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, Washington, D.C. 20231, on this 5 day of May, 2003

Tina Kobbout
Name

Signature